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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1994

NEERAN ZAIA,

Petitioner,

-vs-

UNITED STATES OF AMERICA,

Respondent.

APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

Nos. 93-1452, 93-1454

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,)
)
Plaintiff-Appelle)
)
)
v.)
)
)
NEERAN ZAIA and HAZIM SAEEGH,)
)
Defendants-Appellants.)

Decided and Filed Sep 2, 1994

BEFORE: **KENNEDY** and **SILER**, Circuit Judges; and **BROWN**, Senior Circuit Judge.

PER CURIAM. Defendant Neeran Zaia was convicted by jury trial on three counts of bribery, seven counts of visa fraud, and one count of alien smuggling; she was sentenced to fifteen months of imprisonment. Her co-defendant Hazim Saeegh was convicted on one court of bribery and received a sentence of eight months. Zaia claims entrapment,

insufficiency of the evidence, and outrageous government conduct, as well as jury misconduct and, finally, error in the failure of the sentencing court to grant her request for a downward departure. Saeegh claims error in the sentencing court's failure to reduce his base offense level due to his mitigating role

in the offense.[1] We **AFFIRM** the convictions and sentences as entered by the district court.

Zaia, who is a former Iraqi citizen and a Chaldean Catholic, operates a

[1] The commentary to Guidelines section 3B1.2 on "Mitigating Role" provides that the defendant's lack of knowledge or understanding of the scope and structure of the enterprise and of the activities of others is indicative of a role as minimal participant." U.S.S.G. Section 3B1.2, comment. (n.1). Moreover, "a minor participant means any participant who is less culpable than most other participants, but whose role could not be described as minimal." *Id.*, comment.(n.3).

travel agency in Detroit. In the wake of the Persian Gulf War, she contracted with other Chaldean Catholics living in Iraq or Jordan to help them escape from persecution and likely death at the hands of the Iraqi or Jordan to help them escape from persecution and likely death at the hands of the Iraqi Secret Police. She proposed to acquire Mexican or Canadian visas for her clients, charging up to $5000 per person for her expertise. She escorted a group of sixteen such persons from Amman, Jordan to the Dominican Republic in October 1991. Eventually, she obtained fraudulent United States visas for twelve of them and arranged for four others to travel to the United States by was of Mexico. The latter four eventually entered the United States illegally without visas, where they were

met by Appellant Saeegg and others.

Zaia had obtained World Service Authority (WSA) passports for the members of her group, but was unable to obtain visas[2] for these passports, since the WSA is a private organization whose passports are not recognized by any government. The United States Embassy in the Dominican Republic refused to issue visas for these passports. The group then traveled to Nicaragua and Guatemala, but had no better luck there. After failing in her attempts to acquire Mexican or United States visas for her clients, Zaia took the group to Belize in January 1992. There she approached Sue Williams, the owner of the motel where the group was staying, and asked for help contacting someone "at the embassy that could help them get visas to the United States." She suggested that she and Ms. Williams

[2] A visa is a government-issued stamp on a passport holder to visit or reside in the issuing country.

"both could make lots of money" if she acquired the proper contact. Williams contacted the United States Consul in Belize, Rudolph Boone, who was already aware of the Iraqis' presence. He testified at trial that he had learned from an earlier State Department cable that Zaia had already attempted to bribe a Guatemalan official in order to obtain visas for her group. When Boone informed Washington of what was transpiring, two special agents were sent to Belize City. Boone was "wired" to record his conversations and proceeded to approach Zaia and offer his assistance in obtaining visas for her group. All conversations between the two were recorded and later transcribed.

Their first meeting took place on February 5, 1992, at Mom's Restaurant, owned by Williams. Boone attempted to offer his services to Zaia. The

government contends that it was Zaia who first suggested paying Boone for the visas. In response to Boone's inquiry ("What's in it for me?"), Zaia stated that "[w]e're going to make money, you know." later Boone persisted by asking: "How much is this worth to you?"; and: "Well, what kind of money, what are we talking about?" It was only then that Zaia responded by specifically offering to pay for the visas. Zaia gave Boone four passports at that time, which eventually involved five fraudulent visas, resulting in the first five counts of the indictment, on which charges Zaia was acquitted. Zaia gave Boone money on February 5 and 6, and again on February 10, for which she was charged with four counts of bribery and also acquitted by the jury.

More meetings followed, with Zaia eventually paying Boone for twelve

fraudulent visas. Of these, she was convicted on charges stemming from the seven visas obtained for passports given to Boone on February 10 and 11, as well as on the bribery charges arising from the money she gave Boone on February 11 at two separate meetings. These transactions were also the basis for her conviction on the alien smuggling charge. Some of the twelve Chaldeans with visas then flew with Zaia to New Orleans, while the others flew to Houston. The four remaining members of the group had already been sent into Mexico and told to cross the Rio Grande River at night at a spot near Brownsville, Texas, where they met Saeegh and several of their relatives. Two of the four testified that it was Zaia's idea to send them into Mexico. Eventually, everyone traveled to Detroit. Boone also came to Detroit, where on February 20, 1992, he met with

Zaia and Saeegh and discussed expanding the fraudulent visa scheme to include more Iraqis who wished to leave their country. At that meeting, Saeegh requested Boone's help in an immigration petition for an elderly Iraqi woman. The next day, February 21, Zaia giving him the immigration file for the Iraqi woman. Zaia denies participating in this transaction, for which she received her final bribery conviction; Saeegh also received his single count of conviction, for bribery, on the basis of this meeting.

II.

The defendants raise several issues on appeal.

A. Did the district court err in denying Zaia's motion for judgment of acquittal because the government failed to prove beyond a reasonable doubt that she was not entrapped?

Zaia moved at the conclusion of the proof for a Rule 29 judgment of acquittal based upon the defense of entrapment as a matter of law. The district court denied the motion and submitted the entrapment issue to the jury. Entrapment as a valid defense has two elements: (1) "`government inducement of the crime,'" and (2) "`a lack of predisposition on the part of the defendant to engage in the criminal conduct.'" *United States v. Barger,* 931 F.2d 359,366 (6th Cir. 1991) (quoting *Matthews v. United States,* 485 U.S. 58, 63 1988)). For a court to find entrapment as a matter of law, the

> testimony and facts must be undisputed; a court may not choose between conflicting testimony or make credibility determinations. Furthermore, the undisputed evidence must demonstrate a "patently clear" absence of predisposition. If either of these elements is missing, then the predisposition question is for the jury to decide.

Id. (internal quotation marks omitted). In making this determination, all

evidence must be viewed in the light most favorable to the prosecution. *Id.*

"The question of entrapment `is generally one for the jury, rather than for the court.'" *United States v. Harris,* 9 F.3d 493, 497 (6th Cir. 1993) (quoting *Barger,* 931 F.2d at 366). However, "a defendant's predisposition must be proven beyond a reasonable doubt, and predisposition [is] the defendant's state of mind ***before*** his initial exposure to government agents." *United States v. Clark,* 957 F.2d 248, 250 (6th Cir. 1992) (internal quotation marks omitted) (emphasis added). "Where the government simply gives the defendant `an opportunity to commit a crime,' and the defendant accommodates by committing a crime, the entrapment claim is unavailable." *United States v. Kussmaul,* 987 F.2d 345, 349 (6th Cir. 1993) (quoting *Jacobson v. United States,* 112

S. Ct. 1535, 1541 (1992)). Moreover, "it has been held that the fact a government agent proposed an illicit transaction ... is insufficient to establish entrapment." *Barger,* 931 F.2d at 367.

Zaia cites to *Jacobson,* in which the Supreme Court found that the defendant had been entrapped, as well as the recent Seventh Circuit decision in *United States v. Hollingsworth,* 9 F.3d 593 (7th Cir. 1993), *vacated, reh'g en banc granted,* 1994 U.S. App. LEXIS 588 (7th Cir. Jan. 10, 1994) *Hollingsworth* relies upon *Jacobson* to support the distinction between a defendant's being "willing" to commit a crime, meaning that she desires the outcome of the imagined illegal act, and her being "ready" to commit that crime, meaning that she is prepared to take the steps necessary to complete the

actual crime. 9 F.3d at 598-99.[3] The case law in our circuit, however, is more in line with the *Hollingsworth* dissent's reliance upon *Jacobson* for the proposition that "predisposition is demonstrated by the defendant's `ready commission of [a] criminal act.'" *Hollingsworth,* 9 F.3d at 603-04, 1994 WL 236976, at *20 (Ripple, J., dissenting) (quoting *Jacobson*, 112 S. Ct. at 1541) (also citing *Kussmaul,* 987 F.2d at 349). In *Kussmaul*, we rejected the defendant's argument that *Jacobson* requires that "the Government's proof of predisposition must

[3]The original decision in *Hollingsworth*, 9 F.3d 593, was vacated and the case was heard en banc. The subsequent opinion nevertheless reached the same outcome as the original panel, but specifically stated: "We do not suggest that *Jacobson* adds a new element to the entrapment defense - 'readiness' or 'ability' or 'ability' or 'dangerousness' in top of inducement and ... predisposition." *United States v. Hollingsworth,* ___F.3d ___, 1994 WL 236976, *3 (7th Cir. June 2, 1994) (en banc).

be established with evidence obtained prior to its initial contact with the targeted individual." 987 F.2d at 348. We found no entrapment as a matter of law because the sting operation which ensnared the defendant "did not exhibit the persistent and overzealous Government pursuit of a reluctant and unresponsive individual over an extended period of time which so offended the *Jacobson* Court." *Id.* at 349.

The same logic applies to this case. A close reading of the transcript of the first meeting between Zaia and Boone indicates that, regardless of who first suggested that the visas could be obtained for money, Zaia very quickly warmed to the idea. She showed no reluctance whatsoever to break the law. In addition, a reasonable juror could conclude that Zaia had already indicated to Williams, as stated heretofore, that

she was willing to pay for United States visas and to offer a bribe to the United States Consul in order to obtain them.

Zaia argues that the strength of the government inducement, under the circumstances of impending deportation and possible execution for some or all of her clients, made it virtually impossible for her to resist the government's entrapment. Citing *Hollingsworth,* she argues that "the stronger the inducement, the more difficult it is for the government to prove predisposition." Zaia also points to evidence in her favor showing that she did in fact pursue various legal means on behalf of her clients, without success, prior to resorting to bribery.

Viewing all of the evidence in the light most favorable to the government, however, justifies, the inference that Zaia was not only predisposed to commit

the crimes for which she was convicted but was also planning to perpetuate her scheme of using fraudulent visas to enable other Iraqis to enter the United States, even after she had safely returned to Detroit with her sixteen clients, so that as she told Boone, "we're going to make money, you know," or as she told Williams, "we both could make lots of money." A reasonable juror could find from the evidence that Zaia was contemplating a continuing course of criminal activity. Such an inference undermines her entrapment defense.[4] The government presented sufficient evidence at trial to enable a reasonable juror to find beyond a reasonable doubt that Zaia

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[4] The government details other evidence to the same effect (e.g. the attempt to bribe a Guatemalan immigration official prior to arriving in Belize; the "inconsistent and false accounts she gave to various people" concerning her group's travel plans).

was not entrapped by government agents.[5]

B. Was there sufficient evidence to convict Zaia on the bribery charge stemming from the Detroit meetings?

"In addressing sufficiency of the evidence questions, this Court has long recognized that we do not weigh the evidence, consider the credibility of witnesses or substitute our judgment for that of the jury." *United States v. Hilliard,* 11 F.3d 618, 620 (6th Cir. 1993), *cert. denied,* 114 S. Ct. 1099 (1994). Our role is to determine whether *all of the evidence--* viewing it in the light most favorable to the government and drawing all reasonable inferences in

[5] Zaia also argues that the fact that she was acquitted on the earlier counts and convicted only on the later ones shows that the jury believed that she was not predisposed to commit these crimes from the beginning, prior to the influence of the government agents, but only became so after being induced into criminal activity by the government. We decline, however, to go behind the jury verdict in order to dissect hypothetical rationales for the jury's disposition of the various counts against Zaia.

the government's favor--could justify *any* rational trier of fact in concluding that which element of the crime has been proven beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979). *See also United States v. Sturman*, 951 F.2d 1466, 1474 (6th Cir. 1991), *cert. denied*, 112 S. Ct. 2964 (1992); *United States v. Head*, 927 F.2d 1361, 1365 (6th Cir.), *cert. denied*, 112 S. Ct. 144 (1991). If we determine that the evidence could justify such a conclusion, a claim based upon insufficiency of the evidence must fail. Moreover, the evidence presented by the government "need *not* remove every reasonable hypothesis except that of guilt." *United States v. Stone*, 748 F.2d 361, 362 (6th Cir. 1984).

In this light, we reject Zaia's claim that she was "merely present" at the Detroit Meetings and did not

participate in the bribery scheme there. She was videotaped handing Boone the $500 pay-off money. Her appeal on this point, that the evidence is insufficient to support a reasonable jury's conclusion that she was guilty of bribery, is without merit.

C. Was the district court's failure to clarify the jury instructions on entrapment, when so requested by the jury, a violation of Zaia's constitutional rights?

Zaia failed to object to the jury instructions on entrapment at trial, so we review her claim here under the doctrine of plain error. The jury was given the Sixth Circuit Pattern Instruction 6.03 on entrapment, but during the course of its deliberations, it requested a clarification on the entrapment defense, which the district court refused to give. Zaia did not object to this refusal at that time. She now argues, however, that the entrapment

instruction was "misleading, or g[a]ve an inadequate understanding of the law." *See United States v. English*, 925 F.2d 154, 158 (6th Cir.), *cert. denied,* 501 U.S. 1210, 501 U.S. 1211 (1991) (internal quotation marks omitted). She argues that the pattern instruction was misleading in light of the *Jacobson* case, which was decided after our pattern instruction was written but prior to the trial in this case.

We cannot agree. The pattern instruction includes the following statement: "The crucial question in entrapment cases is whether the government persuaded a defendant who was not already willing to commit a crime to go ahead and commit it." *Pattern Criminal Jury Instructions of the Sixth Circuit* section 6.03(4) (West 1991). We do not see how *Jacobson* makes this instruction misleading or an inadequate

expression of the law, which is the test for the correctness of jury instructions. *English*, 925 F.2d at 158. It would be anomalous for us to find one of our own pattern instructions to be erroneous; this is especially true when the test here is whether the inadequacy of the instruction rises to the level of plain error, i.e., whether the error is "clear" or "obvious." *United States v. Olano*, 113 S. Ct. 1771, 1777 (1993).

"The trial court is vested with broad discretion in formulating its charge and will not be reversed unless the charge fails accurately to reflect the law." *English*, 925 F.2d at 158 (internal quotation marks omitted). The jury was told that it could convict Zaia only if it could find beyond a reasonable doubt that, despite the effects of government persuasion, she was "*already* willing to commit a crime." *Jury*

Instructions sections 6.03 (emphasis added). Such an instruction accurately reflects the law of entrapment, even with the gloss placed upon it by *Jacobson.*

D. Did the government engage in outrageous conduct in the investigation of Zaia?

The Supreme Court has held that it is possible for the conduct of law enforcement agents to be so outrageous as to violate a defendant's due process rights. *United States v. Russell*, 411 U.S. 423, 431-32 (1973). Such conduct must be so egregious as to violate fundamental fairness and to be "shocking to the universal sense of justice." *Id.* at 432; *see also United States v. Barger,* 931 F.2d 359, 363 (6th Cir. 1991). Whether or not a due process violation exists is a conclusion of law, which we review *de novo.* *See id.; United States v. Levy,* 904 F.2d 1026, 1029 (6th Cir. 1990) *cert. denied,* 498 U.S. 1091 (1991).

We have established a four-part test for outrageous conduct: "(1) the need for the police conduct as shown by the type of criminal activity involved, (2) the impetus for the scheme or whether the criminal enterprise preexisted the police involvement, (3) the control the government exerted over the criminal enterprise, and (4) the impact of the police activity on the commission of the crime." *Barger* 931 F.2d at 363.

The government points out that Zaia was the one who first approached Williams about making contact with an employee of the United States embassy in Belize (the "impetus" prong of the *Barger* test), and that Zaia on her own, without any government participation or knowledge, sent four of her clients into Mexico illegally, without, visas of any kind (the "control" and "impact" prongs). It was also Zaia who selected which

passports to give to Boone (the "control" prong); and it was Zaia who created the need for her illegal activities by bringing her clients to Belize without any realistic chance of obtaining legitimate visas for them (the "impetus" prong). The government argues that, in order to investigate Zaia's apparent interest in obtaining fraudulent visas, it had no choice but to present someone to be bribed, namely Boone (the "need" prong). We conclude that Zaia showed enough initiative in the conduct of the criminal activities at issue here to prevent our finding that the government conduct in this case was so outrageous as to "shock the universal sense of justice."[6]

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[6] It should be noted that a recent Sixth Circuit panel decision has held, as a matter of law, that the defense of "outrageous government conduct" no longer exists. *United States v. Tucker*, ___ F.3d ___, 1994 WL 363882 (6th Cir. July 15, 1994). The *Tucker* court explained that a

E. Was it error for the district court to refuse to conduct an evidentiary hearing into allegations of jury misconduct and false statements made during voir dire?

Zaia makes two related claims of juror misconduct: (1) her due process right to a fair trial was violated because of ethnic prejudice against her on the part of certain members of the jury, and (2) these jurors lied during voir dire when they denied having any prejudice against the defendants. Zaia requests an evidentiary hearing concerning these matters. When a defendant makes an allegation of misconduct during jury deliberations, "[i]t is within [the trial judge's] discretion to determine what manner of hearing, if any, is warranted." *United States v. Wilson,* 534 F.2d 375, 379 (D.C.

defendant who now relies on the defense of inducement is "limited to the defense of entrapment and its key element of predisposition." *Id.* at *7.

Cir. 1976). Zaia bases her claim on a letter sent by juror Trudy Miller to defense counsel, which states in pertinent part: "I heard many statements in that room that sounded prejudice [sic], and of course they denied it!" Both parties agree that F.R.E. 606(b), concerning inquiry into the validity of a verdict, precludes a juror's testimony and also a juror's affidavit or statement regarding "any matter or statement occurring during the course of the jury's deliberations," except with regard to "extraneous prejudicial information" or "outside influence...improperly brought to bear."

The government argues convincingly that the two stated exceptions are the only ones recognized as allowing for the possibility of an evidentiary hearing concerning the validity of a verdict. The allegations of prejudice made by

juror Miller do not fall within either of these exceptions. The Supreme Court ruled in *Tanner v. United States,* 483 U.S. 107 (1987), that the district court had not erred by refusing to hold an evidentiary hearing concerning a juror's post-verdict allegations accusing other jurors of alcohol and drug abuse during the course of the trial and the jury deliberations. In the same vein, the Seventh Circuit in *Schillcutt v. Gagnon,* 827 F.2d 1155 (7th Cir. 1987), reiterated the importance of protecting the "fruitful exchange of ideas and impressions among jurors" by assuring them that their comments "will not reach a larger audience." *Id.* at 1159. Only in cases of the "extremely rare abuse" that has denied a juror her due process right to a fair trial will an evidentiary hearing be required. In *Shillcutt,* the following statement was made by a juror

about the defendant and reported by a fellow juror: "Let's be logical; he's a black, and he sees a seventeen year old white girl--I know the type." The court held that this did not amount to the type of "prejudice pervad[ing] the jury room" that would necessitate an evidentiary hearing. *Id*. In the case at hand, there is even less evidence of actual prejudice against the defendant Zaia. Juror Miller heard statements that "sounded [like] prejudice." We decline on that basis to interfere with the sound discretion exercised by the district court in denying Zaia's motion for an evidentiary hearing regarding jury misconduct.

Zaia also claims the district court erred in denying an evidentiary hearing based upon false answers to voir dire questions. In *McCoy v. Goldston*, 652 F.2d 654 (6th Cir. 1981), we stated that an evidentiary hearing on a juror's

alleged failure to disclose information during voir dire will be held only if the movant "has presented a sufficient evidentiary basis to raise a fact issue of prejudice, "*id.* at 659, and that "the allegations in the moving papers must be sufficiently *specific, detailed, and nonconjectural* so that fact issues are raised." *Id.* at 659 n.9 (emphasis added). *See also Marks v. Shell Oil Co.*, 895 F.2d 1128, 1130 (6th Cir. 1990).

In the case at hand, Zaia has failed to point to the specific and nonconjectural fact issues required as a basis for granting her motion for an evidentiary hearing. The only basis for her claim is the highly speculative inference, drawn by a single juror, that her fellow jurors harbored racial and ethnic prejudice against the defendants. The accusing juror admits, however, that her fellow jurors, when confronted,

denied the allegations of prejudice. We will not disturb on such an insubstantial basis the district court's exercise of discretion in denying Zaia's request for an evidentiary hearing regarding voir dire impropriety.

F. Was it error for the sentencing court to fail to use its discretionary authority to grant Zaia's request for a downward departure in her sentence?

"A district court's failure to depart from the Guidelines range is not cognizable on appeal...when the district court properly computes the Guidelines range, imposes a sentence that is not illegal or did not result from an incorrect application of the Guidelines range, and is not unaware that it had discretion to depart from the Guidelines range." *United States v. Brannon*, 7 F.3d 516, 521-22 (6th Cir. 1993). Zaia argues that the district court was unaware that it possessed the discretion to depart form the Guidelines based upon section

5K2.11, which allows a downward departure when "a defendant [has committed] a crime in order to avoid a perceived greater harm." The sentencing court did, however, consider the possibility of a departure under section 5K2.11, but rejected it because "it isn't the kind of departure that 5K2.11 is talking about, number one. And, number two, because it was of a continuing nature. That she still met and tried to initiate or to be part of bribery, it kind of offsets that." Zaia's appeal on this issue is therefore without merit.

D. Was it error for the sentencing court to fail to reduce Saeegh's sentencing level due to his mitigating role in his offense of conviction?

Saeegh argues on appeal that the district court's failure to reduce his base offense level due to his mitigating role in the offense, pursuant to U.S.S.G section 3B1.2, was clear error, as was its failure to make specific factual

findings regarding a matter in the presentence report to which he objected, pursuant to Fed. R. Crim. P. 32(c)(3)(D). "The district court's findings of fact regarding whether [defendant] is entitled to [a] reduction will be reviewed only for clear error. Defendant must prove by a preponderance of the evidence that he is entitled to the reduction." *United States v. Moss*, 9 F.3d 543, 554 (6th Cir. 1993) (citation omitted).

Saeegh argues that the district court's failure to decrease his offense level contradicts various statements it made at the sentencing hearing to the effect that "Ms. Zaia was the organizer -- she was the supervisor to a great extent," and that "[Saeegh's] role was substantially less than the other defendant in relation to the criminal activity." On the other hand, the district court also found that Saeegh

"to some extent--in relation to this particular [i.e., apparently, in relation to the activity forming the basis for his sole count of conviction]- was motivated by the fact that he *did know* what was happening. I don't think there's any question about it." (Emphasis added). Earlier, the district court found that "there's nothing in the testimony or otherwise that would lead the Court to believe that he's entitled to either anything mitigating or anything for increasing."

The district court ostensibly relied upon the videotape of Saeegh handing the immigration file to Boone on February 21, 1992, recorded in Boone's Detroit hotel room, as well as upon Boone's testimony regarding Saeegh's involvement, during Boone's Detroit visit, in the attempt to obtain a fraudulent visa by offering Boone a bribe. The government argues

that the district court's statements referred to by Saeegh concerned his role in the overall scheme to help the Chaldeans enter the United States illegally, which role was admittedly "substantially less" than that of Zaia, but that the court also found that Saeegh's role in the single count for which he was convicted did not warrant a mitigating role reduction. We agree. Although the district court could have more clearly stated the factual basis for its conclusion that Saeegh was not entitled to a reduction, it did find that Saeegh had knowledge of the "particular matter" involving his count of conviction and based its decision, at least in part, upon that finding.

The testimony of Boone established that Saeegh "seemed very well acquainted with all the events" involving the twelve Iraqis constituting Zaia's group in

Belize, and that Saeegh participated roughly as an equal with Zaia in the discussions concerning the immigration file at issue in his count of conviction, although Saeegh rightfully points out that Boone was unsure as to many of the specifics of Saeegh's involvement in these discussions. There is apparently no dispute that Saeegh did in fact hand Boone the immigration file, for which he sough special treatment, shortly before he was arrested. Under a different set of circumstances, we have held that a sentencing court's factual finding concerning the quantity of drugs to be counted against a defendant is "adequate" even when limited to the single statement that "`I think the jury chose to believe the former [explanation of what the defendant had done] and I think that is a reasonable determination.'" *United States v. Todd,* 920 F.2d 399, 408 (6th

Cir. 1990). Accordingly, we find that the sentencing court in the case at hand also made an adequate factual finding in rejecting Saeegh's request for a reduction in his sentencing level.

Finally, Saeegh has failed, on appeal and apparently also at the district court, to point to any factual matter to which he objected in the presentence report. His resort to Fed. R. Crim. P. 32(c)(3)(D) is therefore unavailing. Essentially, as the government asserts, he is arguing that the district court failed to make an adequate factual finding concerning the mitigating role issue. We addressed that argument above and found it insufficient to require resentencing for Saeegh.

III.

For the reasons stated above, we **AFFIRM** the convictions and sentences of both appellants, as entered by the district court.

UNITED STATES DISTRICT COURT

EASTERN District of **MICHIGAN**

HONORABLE BERNARD A. FRIEDMAN

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE
(For offenses Committed On or After November 1, 1987)

V.

NEERAN ZAIA Case No. 92-CR-80137-01-DT

(Name of Defendant) **DAVID ESPER**
Defendant's Attorney

THE DEFENDANT:

[ ] pleaded guilty to count(s)
[x]was found guilty on count(s)6 thru 12, 17, 18, 19, 20/SS INDICTMENT after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	**Nature of Offense**
18:USC:1546(a)	VISA FRAUD
18:USC:201(b)(1)	BRIBERY
8:USC :1342(a)(1)(D)	ALIEN SMUGGLING

Date Offense Concluded	**Count Number(s)**
1-92	6,7,8,9,10,11,12
1-92	17, 18, 19

1-92 20

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

[x] The defendant has been found not guilty on count(s) 1 through 5, 13, 14, 15, 16, and is discharged as to such count(s).
[x] Count(s) 21 (is) ~~(are)~~ dismissed on the motion of the United States.
[x] It is ordered that the defendant shall pay a special assessment of $50.00, for count(s) 6 thru 12, 17 thru 19 and 20, which shall be due [x] immediately [] as follows: **for a total of $550.00**

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 379-88-2533

Defendant's Date of Birth: July 1, 1963

Defendant's Mailing Address:

Defendant's Residence Address:

3767 Barq Drive
Sterling Heights, Michigan 48310

MARCH 10, 1993
Date of Imposition of Sentence

/s/
Signature of Judicial Officer

BERNARD A. FRIEDMAN
UNITED STATES DISTRICT JUDGE
Name & Title of Judicial Officer

MAR 15 1993
DATE

Defendant: NEERAN ZAIA
Case Number: 92-Cr-80137-01-DT
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IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of
Fifteen (15) months on each Count 6, 7, 8, 9, 10, 11 and 12
Fifteen (15) months on each Count 17, 18, 19
Fifteen (15) months on Count 20

All terms of incarceration are to run CONCURRENT with each other

[] The court makes the following recommendations to the Bureau of Prisons:

[]The defendant is remanded to the custody of the United States marshal
[]The defendant shall surrender to the United States marshal for this district. **The court granted defendant's motion for bond pending appeal**
[]at_____am/pm on _____
[]as notified by the United States marshal.
[]The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,
[]before 2 p.m. on_____
[]as notified by the Unites States marshal.
[]as notified by the probation office.

RETURN

I have executed this judgment as follows:

_____

_____

Defendant delivered on _____to_____
at_____,
with a certified copy of this judgment.

_____
United States Marshal

By_____
Deputy Marshal

Defendant: NEERAN ZAIA
Case Number: 92-Cr-80137-01-DT
Judgment-Page 3 of 5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of Two (2) years on each count: Counts 6 thru 12, 17, 18, 19, and 20 all terms of supervised release are to run CONCURRENT to each other

While on supervised released, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

[x]The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

[]The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.

[x]The defendant shall not possess a firearm or destructive device.

14. The defendant shall abide by all standard conditions of supervised release as outlined below and adopted by the court.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

1) the defendant shall not leave the judicial district without the permission of the court or probation officer.

2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;

3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

4) the defendant shall support his or her dependents and meet other family responsibilities;

5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;

6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;

7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;

8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or

administered;
9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probate officer;
10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
13) as directed by the probation officer; the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

Defendant: NEERAN ZAIA
Case Number: 92-CR-80137-01-DT
Judgment- Page 4 of 5

FINE

The defendant shall pay a fine of $_____. The fine includes any costs of incarceration and/or supervision.

[ ] This amount is the total of the fines imposed on individual counts, as follows:

The court waives all fines and costs of incarceration, find the defendant unable to pay

[ ] The court has determined that the defendant does not have the ability to pay interest. It is ordered that:

[ ] The interest requirement is waived.
[ ] The interest requirement is modified as follows:

This fine plus any interest required shall be paid:
[ ] in full immediately.
[ ] in full not later than _____
[ ] in equal monthly installments over a period of_____months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
[ ] in installments according to the following schedule of payments:

Defendant: NEERAN ZAIA
Case Number: 92-CR-80137-01-DT
Judgment- Page 5 of 5

STATEMENT OF REASONS

[ ] The court adopts the factual findings and guideline application in the presentence report.

OR

[X] The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary): **for the 8 level increase pursuant to 2C1.1(b)(2)(B)**

Guideline Range Determined by the Court:

Total Offense Level: 14

Criminal History Category: I

Imprisonment Range: 15 to 21 months

Supervised Release Range: 2 to 3 years

Fine Range: $4,000.00 to 40,000.00

[x] Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: $_____

[ ] Full restitution is not ordered for the following reason(s):

[x] The sentence is within the guideline

range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

[] The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

[] upon motion of the government, as a result of defendant's substantial assistance.

[] for the following reason(s):

U.S. DEPARTMENT OF STATE

BUREAU OF DIPLOMATIC SECURITY

SUBJECT: BOONE/ZAIA, BELIZE CITY

CASE No.: D56-15989

SA/CI: ROBERT VALENTE

FEBRUARY 5, 1992

MORNING MEETING

MR. VALENTE: This is special agent Robert Valente, DSI/CR. The time is 10:30 a.m. on February 2, 1992. The place is the American Embassy, Balize City, Balize. We are testing Panasonic recorder, model number RN 36, serial number XEOIC 14562. The counter reading is 005.

The following is a consensually monitored conversation between American Embassy Balize Consul, Ruby Boone and Niran (Nancy) Zaia.

Mr. Boone, do we have your consent to tape your conversation with Miss Zaia?

MR. BOONE: Yes, you have my full consent to tape the conversation.

MR. VALENTE: The time is 10:44 a.m. on [011] February 5, 1992. The conversation will take place at Mom's Restaurant in Belize City, Belize. The

counter reading is 010.

MR. BOONE: Hi Sue, how're you doing? (inaudible) Mi, Miss Zaia? Is Nancy Zaia? This is,

MS. ZAIA: Yes.

MR. BOONE: Hi, I'm Mr. Boone. Can I talk with you a bit?

MS. ZAIA: Yeah, okay.

MR. BOONE: Can we go... I don't know Here; it doesn't matter. Maybe in the back? Hi, Kimberly.

MS. ZAIA: Okay. Regarding?

MR. BOONE: Well, can I -- Shut this door?

MS. ZAIA: We can go in my room it's okay.

MR. BOONE: I've gotten work from some people that you're here.

MS. ZAIA: Okay.

MR. BOONE: And I wanted to talk to you about your situation.

MS. ZAIA: Situation? What kind of

Situation?

MR. BOONE: My friend out at the airport says that you have a group here.

MS. ZAIA: Okay.

MR. BOONE: Can we close the door?

(Whereupon the door was closed.)

MR. BOONE: And um, you might need some help and I was wondering what that was. I am the counsel, the chief of the section.

MS. ZAIA: Okay.

MR. BOONE: And ah, that's it.

MS. ZAIA: You mean if I need help, you mean, you can help?

MR. BOONE: With your group, ah --

MS. ZAIA: Well most of them, they like to stay here.

MR. BOONE: Uh-hmm, they want to stay here?

MS. ZAIA: Yeah. So they need do some favor for them. Some people they like to buy Belize passport because they

like to
go and come back. Because if they go to Jordan, it's hard to come back here.

MR. BOONE: Uh-hmm.

MS. ZAIA: Because why? Because they have passport Iraqi. They don't listen to come any time they want.

MR. BOONE: Yeah.

MS. ZAIA: They do investment here or they do anything here, they need -- something to go and come back easy. Like any time, like, you mean, the first time it's too hard to get visa to them because they are Iraqi.

MR. BOONE: Yeah.

MS. ZAIA: Yeah. They don't get visa, Because Mousa, Said Mousa, I talk to him because his mom, she knows me, I'm part Palestinian, so we are cousins, my second cousin. I mean, they know my mother.

MR. BOONE: Your cousins, yeah.

MS. ZAIA: Yeah, So they guy he help me - MR. BOONE: Not Israel, but Palestine.

MS. ZAIA: Yeah.

MR. BOONE: Yeah, okay.

MS. ZAIA: So the guy help me to get the visa here it's no problem. But most of the people they say, I mean, this is hard, you cannot get passport just because they ask for a lot of money. I have to give --

MR. BOONE: You mean the economic citizenship?

MS. ZAIA: Yeah, they issue to them.

MR. BOONE: Yeah.

MS. ZAIA: They issue to them. I talk with what they call Saris, what's his name?

MR. BOONE: Abounara (ph.)

MS. ZAIA: Abounara, yeah. He's very nice guy. I talk to him. I like to

help you, but the government, they have to pay $25,000.00. If they pay $25,000.00 they have a different life, I mean. Very nice place they saw before Dominican Republic.

(Inaudible) without this money.

MR. BOONE: Yeah.

MS. ZAIA: It's by the law.

MR. BOONE: You can buy the business and do this and that?

MS. ZAIA: Right away and after six months then I give you whatever you want. So, you know a lot of pressure and a lot of stories.

MR. BOONE: Yeah.

MS. ZAIA: About your idea? What do you think you can help these people?

MR. BOONE: Well, I'm leaving here soon.

MS. ZAIA: When you going?

MR. BOONE: I'm leaving here, - I'm going to another post on a new assignment

--

MS. ZAIA: Okay.

MR. BOONE: -- and, ah so I, - my interest for this job is dwindling daily and --

MS. ZAIA: I know everybody here, even in government.

MR. BOONE: -- I have been told by a friend and --

MS. ZAIA: They met someone here?

MR. BOONE: -- he has met you at the airport and I've --

MS. ZAIA: You can help them for --

MR. BOONE: I believe I can.

MS. ZAIA: to issue passport?

MR. BOONE: I believe I can.

MS. ZAIA: You can?

MR. BOONE: Yes. I have, by the way, I have a lot of friends that -- let me finish, let me finish, from Lebanon, okay. One of my best friends when I was in the State Department in Washington was

a lawyer, a Lebanese lawyer named Kafuri (ph.) Tafique Kafuri (ph.); do you know that name?

MS. ZAIA: Kafuri yeah. I know, I know the last name.

MR. BOONE: Well, Kafuri's all over the place.

MS. ZAIA: All over, yeah.

MR. BOONE: And from Tafique's situation, and he came to Washington as a displaced, stateless person, so I know what that's about, okay. We have problems here with a lot of Chinese coming in and I watch the Chinese.

But I understand, I think, the Middle East situation and the different way because of Tafique and ah, and he's used to say he was a warrior, you know, he was a Christian and how difficult it is in that part of the world to live because he came from a fine family. His father was a doctor; he was a lawyer, you

know. He had to practice law for King aud (ph.) in Saudi Arabia for two years, and so, there is this understanding, this feeling.

So, if I can help you, let me know, and ah --

MS. ZAIA: Yes, I need your help, but what

kind like -- tell me truth, because you know what? I like to help these people.

MR. BOONE: Well, you tell me. What do you need?

MS. ZAIA: If you need me, if you wan, you mean, I know that you said you're going to leave, I mean --

MR. BOONE: No, I'm not leaving until June.

MS. ZAIA: I know.

MR. BOONE: This is al confidential.

MS. ZAIA: Every month, I got different group. These people when they come here, they like to go every month.

Somebody they like to go to the Canada; Somebody they like to go the Mexico; somebody they like to go to the U.S.A. Somebody, they like to stay here, you know. Each people is different.

MR. BOONE: And every month --

MS. ZAIA: Every month, yeah.

MR. BOONE: Well, I don't know about that, but, hey, you know --

MS. ZAIA: Yeah. But I;m a travel agency. I try to help everybody and I can't do that. When I talk with the lawyer here, you know, Margaret, Said's sister, the lawyer, when I talk to her, she said she had a talk with Embassy in Mexico and she (inaudible) and -- maybe she can get a visa for them. Some people they can ...

MR. BOONE: Yeah, well, you see the problem there is that to get a Mexican visa okay, if you tell them you're going to -- they want to know where you're

really going to go and then they have a tendency to send people away without Mexican visas and say go to the U.S> consular section and get a visa and then come back; get a U.S. visa and then we'll give you a Mexican visa, so even that's hard.

MS. ZAIA: I know.

MR. BOONE: See, without the U.S. visa. And this is the problem Tafique had. I mean, he had problems getting his brother out and I helped his brother, Nicholas, who went to dental school in Philadelphia.

MS. ZAIA: (Inaudible). I know sometimes it's had to get the visa to them.

MR. BOONE: Yeah.

MS. ZAIA: So what are you going to do for them, either passport, either visa, either. They can get a job anywhere they want. I don't care. It's

not my business --

MR. BOONE: Yeah.

MS. ZAIA: -- where they get the job. What if they don't have no choice? What are they going to do?

MR. BOONE: Well, what's -- let's be for real, okay. What's in it for me? Now, I'm leaving here and --

MS. ZAIA: I know, but --

MR. BOONE: -- and everybody thinks --

MS. ZAIA: I don't know what are you going to do for me. Just, - I told you what the situation.

MR. BOONE: But do you need visas?

MS. ZAIA: I hope so.

MR. BOONE: I could help you.

MS. ZAIA: And I appreciate it. This is business. We're going to make money, you know.

MR. BOONE: This is business.

MS. ZAIA: This is business.

MR. BOONE: To me, it would be a business.

I have, - I mean, I understand Tafique's situation, but I put my career --

MS. ZAIA: I don't know the first, - your name.

MR. BOONE: Rudy, Rudy.

MS. ZAIA: Rudy?

MR. BOONE: Rudy.

MS. ZAIA: Rudy, my name is Nancy. This

is business for others because I help many, many people in the Middle East. They need help. They need to run away. They need me.

MR. BOONE: I don't know about all of that.

MS. ZAIA: I know.

MR. BOONE: Okay?

MS. ZAIA: No, no, but you heard what's going on between -- Bush and Saddam what's going on, what's happened

to all the people.

MR. BOONE: And it's going to flare up again. Bush is going to need another confrontation with Sadam --

MS. ZAIA: They going to start --

MR. BOONE: -- for the election.

MS. ZAIA: The people, they need to sell the (inaudible). Well, they're not going to stay until they kill them a lot of people, I mean, every family they have, two or three people (inaudible).

MR. BOONE: Well --

MS. ZAIA: Visa or passport, you know somebody, they say they can drive and take them anywhere they want. I don't care.

MR. BOONE: You see, I have been working with the Chinese. I'm interested in Chinese, that's what I'm -- Chinese and Indian.

MS. ZAIA: Chinese is easy, It's not like these people.

MR. BOONE: No, no, no, the Chinese are very different. They don't get into the society as much. They keep to themselves so they never become American. See, that's my thing.

MS. ZAIA: Yeah.

MR. BOONE: When you say monthly, I don't know, see.

MS. ZAIA: I get monthly because this is my job. I have to finish from these people then I have to go back to the

Jordan and bring the other people.

MR. BOONE: Okay, well, I'm the chief of this section, so there's nobody beyond me. Everything comes through me.

MS. ZAIA: That's good.

MR. BOONE: Okay? But at the same time, I'm not going to jeopardize my career just -- if you talk to anybody -- and they thing is, I lived in Balize for two years. I know people talk --

MS. ZAIA: I know.

MR. BOONE: You call Saaed, Saaed will call --

MS. ZAIA: No, no, this is if you -- this is a group, listen, everybody they know. Most of them they gone.

MR. BOONE: Yeah.

MS. ZAIA: I have the group, they gave already they go back to Santa Dominica but they cannot do nothing to them. I'm honest with you. I have just a few left. A few left, so if you can do something

just between us, even if you can go back to the America. If you like, it you like to work with me, we're going to work together. Even Said, I don't need him. Like I said --

MR. BOONE: You can't trust anybody here.

MS. ZAIA: I know, I know.

MR. BOONE: You know --

MS. ZAIA: I got knowledge now.

MR. BOONE: Yeah. Okay.

MS. ZAIA: We gotta do, - even lawyer, I don't need lawyer. We -- just show me where you gonna do it, but even if you go to the United States (inaudible) the people from Jordan, they send me all the passports to me I send them to here. To get them visa. (inaudible). Then I send them back to Jordan.

MR. BOONE: This is an Iraqi passport or Belize passports?

MS. ZAIA: No. I talk about Iraqi.

MR. BOONE: Iraqi.

MS. ZAIA: If you can make it Belize passport, ooh, it's good. You can do that?

MR. BOONE: Well, I know people who can because I've been working the other end for so long that I know --

MS. ZAIA: You have the Belize?

MR. BOONE: I know people who can. I'll give you a number and you take it.

MS. ZAIA: I don't want. If they can do it... you I don't want to go and ask. I ask all of the guy. They ask for big money. How the gonna give them.

MR. BOONE: Big money.

MS. ZAIA: No way because

MR. BOONE: Well, I'll tell you what. If you can show me some good faith, I will do, too, and I'll see two or whatever, and we'll see how it goes.

My problem is I have to do them within the course of the day because I have to do the end of the day tally sheets and what I have to do is figure out how to register an Iraqi as a non-Iraqi on my sheet.

MS. ZAIA: Yeah.

MR. BOONE: It'll show as a Balizian, but I have to do that before my accountant takes it. Because it's a very

controlled system; that's the problem.

MS. ZAIA: I know.

MR. BOONE: See, so --

MS. ZAIA: So what do you want me to show you?

MR. BOONE: Well, you want to work?

MS. ZAIA: Well, why not? I like to believe me, believe me I'm honest with you. I like to -- I mean --

MR. BOONE: But you can't call me at home.

MS. ZAIA: No.

MR. BOONE: And you can't call me. I don't know how we can get in contact.

MS. ZAIA: Well, call me here.

MR. BOONE: Because you know the Embassy phone --

MS. ZAIA: Okay. You know what, you know, just give me a call anytime you want, say Nancy, I want to see you, downstairs

MR. BOONE: Okay, Now, maybe that's

a problem 'cause everybody knows me. I mean, I'm well known, you see. I'm well known for going against all these -- well, Chinese. Everybody says I hate Chinese. I don't hate Chinese. But the Chinese, there's so many more of them.

MS. ZAIA: No, but there's nobody that cannot complain to you because (inaudible) a whole lot of friends (inaudible). We can do that.

MR. BOONE: How much is this worth to you?

MS. ZAIA: I don't know what you gonna do to them. Because I don't know what you're gonna do.

MR. BOONE: Well, if you want visas, if that's what you want --

MS. ZAIA: Visas to where?

MR. BOONE: To the U.S.

MS. ZAIA: You can do to U.S.?

MR. BOONE: Yes.

MS. ZAIA: Oh my God, How long that

take?

MR. BOONE: I've gotta do it within the course of the day because if the reconciliation, see; the numbers have to be -- it's an easy process. And the thing about why people don't realize how easy it is, is that we don't keep records of the issuances beyond six months.

MS. ZAIA: So you work with the U.S. Embassy now.

MR. BOONE: I'm the chief of the section.

MS. ZAIA: Oh, my God.

MR. BOONE: I am the consul --

MS. ZAIA: For the --

MR. BOONE: Yeah, I have been over here. I've been scoping you out, okay, so you
know that, I mean, you know. I wanted to get a sense of --

MS. ZAIA: (Inaudible).

MR. BOONE: You don't talk to Sue,

you don't talk to Sue.

MS. ZAIA: No, she don't know nothing.

MR. BOONE: Because in Belize, this is where you talk to Saaed, Saaed's going to talk to everybody else.

MS. ZAIA: No, Saaed, no. I told him I need to bring people here to invest them some money and they going to do this and that.

MR. BOONE: Yeah.

MS. ZAIA: So, you, what are you going to do? How long it gonna take visa for them?

MR. BOONE: Well, what kind of money; what are we talking about?

MS. ZAIA: If you gonna get the visa, if you get the visa because this is A group.

MR. BOONE: Yeah.

MS. ZAIA: Like 15-16 people.

MR. BOONE: Go ahead.

MS. ZAIA: Okay, so what do you think it's worth to get them? I got 11, I got 11 today, I got 11.

MR. BOONE: Here?

MS. ZAIA: Yeah, with me, 11.

MR. BOONE: I've never done this before, so.

MS. ZAIA: I know. I got 11. See what you're gonna do. See how much you need. I'm ready to pay any --

MR. BOONE: How about $300.00 a piece? You're talking about multiple.

MS. ZAIA: I know, I know.

MR. BOONE: So that they come and go.

MS. ZAIA: Three hundred, Belize or America?

MR. BOONE: America, U.S. This is a multiple --

MS. ZAIA: Okay, how long it gonna take?

MR. BOONE: I have to close up my

books

by 4:30, 5:00.

MS. ZAIA: You gonna let me know? Okay.

MR. BOONE: I can -- if you want me, I have to start the process.

MS. ZAIA: Okay, go ahead, start.

MR. BOONE: See, we are -- this is why I can't stay long because I'm the chief of this section.

MS. ZAIA: But there's no problem for visa to they go to the America?

MR. BOONE: What?

MS. ZAIA: There's no problem?

MR. BOONE: No, they hop on a plane. They don't have -- see, with the U.S. visa they don't even have to go through Mexico by road.

MS. ZAIA: You can go to the Miami?

MR. BOONE: You put them on Taca (ph.), you put them on American Airlines, blah, blah, blah.

MS. ZAIA: Okay. So you're going to do visa and passport Iraqi?

MR. BOONE: Yeah.

MS. ZAIA: Okay.

MR. BOONE: If you give them to me, - give me two and I will bring back visas and then we will --

MR. ZAIA: You need two passports?

MR. BOONE: Well, we'll start off with two. I'm going to see how it plays because my secretary goes over my reconciliation and if she sees any problem, okay, she won't see the Iraqi passport, therefore, she will see just two notes to the effect that these passports -- they will be recorded as Balizian.

MS. ZAIA: Okay, I know, I understand.

MR. BOONE: Okay, yeah.

MS. ZAIA: Okay, let's go downstairs. We'll make some coffee and

then I'm going to bring you two passports.

MR. BOONE: Go downstairs, okay. You don't say a work to Nancy, Okay?

MS. ZAIA: I know, I know, believe me, believe me, honest. You mean, give me a promise you are honest with me. I don't want nobody to play games with me.

MR. BOONE: Your people will go. I am the chief of the section, okay.

MS. ZAIA: I don't know you.

MR. BOONE: No, I'm the chief of the section see. All right.

MS. ZAIA: But why you scared to give me your home number.

MR. BOONE: Because my phone is hooked into the Embassy.

MS. ZAIA: Okay.

MR. BOONE: See?

MS. ZAIA: But in the future, if I like to call you from America what do I do? If I talk to you like hi, how are

you; how's everything?

I told you -- I told you all my job. They got to send you, two T-shirts. (inaudible).

MR. BOONE: I have a girlfriend, okay.

MS. ZAIA: When I hold her I need to talk with Rudy and you mean --

MR. BOONE: Yeah, she -- yeah, and then I will go back and I will call you back from her house.

MS. ZAIA: Call me collect anytime you want to. I give you my number, I give you everything.

MR. BOONE: Okay, I don't plan to stay in the foreign service long and --

MS. ZAIA: And also if you --

MR. BOONE: Well --

MS. ZAIA: Can do something, I mean I got on she had a big baby few months ... I need to do, to help.

MR. BOONE: Okay, I gotta get back.

MS. ZAIA: You come downstairs. Follow me.

MR. BOONE: Yeah, where's my sunglasses? Okay, We'll see you; it was nice talking with you.

[Conversation with 3rd person]

MS. ZAIA: Okay. What do you want to drink?

MR. BOONE: Just a coke because I have to get back.

MS. ZAIA: What do you like to drink; tea, hot tea?

MR. BOONE: Where are you from? Zaia: America No, where were you born?

MS. ZAIA: My mom was from Palestine and my dad was from Lebanon.

MR. BOONE: Lebanon.

MS. ZAIA: I've been in America about 15 years.

MR. BOONE: You know, I spent 15 of my years before I got married with a sabra, a Jewish woman.

MS. ZAIA: Jewish?

MR. BOONE: Yeah, and that was an interesting experience. Then things started changing because her parents had been in the Holocaust and we would talk about that, you know, but I will get to Israel or Palestine.

MS. ZAIA: Give me your phone number, all right?

MR. BOONE: Let me ask her first. I haven't asked her.

MS. ZAIA: (Inaudible)

MR. BOONE: Is this it here? Okay.

MS. ZAIA: Because I have to --

MR. BOONE: Well, let me see how the two go. I have to figure out the reconciliation.

MS. ZAIA: (Inaudible). Oh, my God.

MR. BOONE: Next year in Jerusalem, as they use to say. You know that? You know that the Jewish saying next year in Jerusalem?

MS. ZAIA: So where are you going to go?

MR. BOONE: I'm going to Manila.

MS. ZAIA: Where's that?

MR. BOONE: The Philippines.

MS. ZAIA: Oh, Philippines. Oh, you gonna work there in the Philippines?

MR. BOONE: Yeah.

MS. ZAIA: Maybe you can do something there.

MR. BOONE: Well, there are a lot of -- yeah.

MS. ZAIA: (Inaudible). They are good people. You will take care of them. (Inaudible).

MR. BOONE: Now, the visa will have my name on it, by the way.

MS. ZAIA: Your name?

MR. BOONE: You know the slug (inaudible)?

MS. ZAIA: I know. (Inaudible).

MR. BOONE: I'm a bit nervous. I'm

a bit nervous.

MS. ZAIA: No.

MR. BOONE: No?

MS. ZAIA: It's easy. You know, I got one guy in Jordan who help me a lot. He give me a visa for two of my relatives (inaudible).

MR. BOONE: I have friends that do it all the time and our thing is we have a lot of what we call, you, know discretion. We can make decisions as a consul.

Anyway, do you have the two for me?

MS. ZAIA: She gonna bring it to me.

MR. BOONE: Okay.

MS. ZAIA: (Inaudible).

MR. BOONE: It's not going to be a big package?

MS. ZAIA: no.

MR. BOONE: It's not going to be a big package; it's not going to be a big package?

MS. ZAIA: No.

MR. BOONE: This is why I picked up a little magazine. I will get -- you know what we talked about this afternoon?

MS. ZAIA: Yeah. So when will I see you again?

MR. BOONE: Call me after 5:00. Shall I call you here?

MS. ZAIA: Yeah, give me a call upstairs.

MR. BOONE: Okay.

MS. ZAIA: Just give me a call, tell them I want to see you. (Inaudible)

MR. BOONE: By the Ramada? Yeah.

MS. ZAIA: You know where?

MR. BOONE: Yeah.

MS. ZAIA: Okay. Meet me there.

MR. BOONE: At the Ramada.

MS. ZAIA: Not the Ramada.

MR. BOONE: Fort George Hotel? No?

MS. ZAIA: (Inaudible).

MR. BOONE: Oh, with that swimming

MS. ZAIA: Yeah, with the swim pool.

MR. BOONE: The Villa?

MS. ZAIA: Villa, yeah.

MR. BOONE: Okay, all right.

MS. ZAIA: You see me there.

MR. BOONE: What time?

MS. ZAIA:It depends what time you--

MR. BOONE: Well, I want to go home and change. Six, 6:30?

MS. ZAIA: Six-thirty, that's when I'm going to be there, okay?

MR. BOONE: Okay.

MS. ZAIA: (Inaudible).

MR. BOONE: How do you say hello in Arabic? Salam Aleikum. Hi, how are you doing? They shouldn't take me for a bedouin.

MS. ZAIA: Yeah. Or Chaldean.

MR. BOONE: No, I'm single now. I just went through a divorce.

MS. ZAIA: Good for you. You're like me. I don't like marry.

MR. BOONE: Hi, stranger, How are you? boy, she has grown.

MS. ZAIA: Everybody they know you here.

MR. BOONE: Yeah, I'm popular. That's why -- I know a lot of people. I used to each lunch, breakfast and dinner here.

MS. ZAIA: Oh. (Inaudible).

MR. BOONE: You should stay here the next time.

MS. ZAIA: No. When I give you a call (inaudible).

MR. BOONE: [conversation with 3rd person - starting with Hi, how are you doing. Haven't seen you for a long time.] I've gotta get back. You know the Bokadeer (ph.) Hotel? I'll write it down for you.

MS. ZAIA: No.

MR. BOONE: All right. Okay. Nice to meet you. Your English is good.

Okay, thank you. Good-bye.

MS. ZAIA: Good-bye.

(Whereupon the conversation was concluded.)